

House File 338 - Introduced

HOUSE FILE 338

BY KOESTER

A BILL FOR

1 An Act relating to public access to data processing software
2 under Iowa's open records law.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.2, subsection 3, paragraph b, Code
2 2015, is amended to read as follows:

3 b. Data processing software developed by the government
4 body or developed by a nongovernment body and used by a
5 government body pursuant to a contractual relationship with the
6 nongovernment body, as provided in section 22.3A.

7 Sec. 2. Section 22.3A, subsection 2, Code 2015, is amended
8 to read as follows:

9 2. a. A government body may provide, restrict, or prohibit
10 access to data processing software developed by the government
11 body or developed by a nongovernment body and used by a
12 government body pursuant to a contractual relationship with the
13 nongovernment body, regardless of whether the data processing
14 software is separated or combined with a public record. A
15 government body shall establish policies and procedures to
16 provide access to public records which are combined with
17 its data processing software. A public record shall not be
18 withheld from the public because it is combined with data
19 processing software.

20 b. A government body shall not acquire any electronic data
21 processing system for the storage, manipulation, or retrieval
22 of public records that would impair the government body's
23 ability to permit the examination of a public record and the
24 copying of a public record in either written or electronic
25 form.

26 c. ~~If it is necessary to separate a public record from~~
27 is only available as a part of or in combination with data
28 processing software in order to permit the examination or
29 copying of the public record, the government body shall bear
30 the cost of separation of the public record from the data
31 processing software.

32 d. ~~The~~ An electronic public record shall be made available
33 in a the format in which it is readily accessible to the
34 government body if that format is useable with commonly
35 available data processing or database management software.

1 The government body may make a public record available in a
2 specific format requested by a person that is different from
3 that in which the public record is readily accessible to the
4 government body and may charge the reasonable costs of any
5 required processing, programming, or other work required to
6 produce the public record in the specific format in addition to
7 any other costs allowed under this chapter.

8 e. The cost chargeable to a person receiving a public record
9 separated from data processing software under this subsection
10 shall not be in excess of the charge under this chapter unless
11 the person receiving the public record requests that the public
12 record be specially processed or produced in a format different
13 from that in which the public record is readily accessible to
14 the government body.

15 f. A government body may establish payment rates and
16 procedures required to provide access to data processing
17 software, regardless of whether the data processing software
18 is separated from or combined with a public record. Proceeds
19 from payments may be considered repayment receipts, as defined
20 in section 8.2. The payment amount shall be calculated as
21 follows:

22 ~~a.~~ (1) The amount charged for access to a public record
23 shall be not more than that required to recover direct
24 publication costs, including but not limited to editing,
25 compilation, and media production costs, incurred by the
26 government body in developing the data processing software
27 and preparing the data processing software for transfer to
28 the person. The amount shall be in addition to any other fee
29 required to be paid under this chapter for the examination and
30 copying of a public record. If a person accesses a public
31 record stored in an electronic format that does not require
32 formatting, editing, or compiling to access the public record,
33 the charge for providing the accessed public record shall not
34 exceed the reasonable cost of accessing that public record.
35 The government body shall, if requested, provide documentation

1 which explains and justifies the amount charged. This
 2 ~~paragraph~~ subparagraph shall not apply to any publication for
 3 which a price has been established pursuant to another section,
 4 including section 2A.5.

5 ~~b.~~ (2) If access to the data processing software is
 6 provided to a person for a purpose other than provided in
 7 ~~paragraph "a"~~ subparagraph (1), the amount may be established
 8 according to the discretion of the government body, and may be
 9 based upon competitive market considerations as determined by
 10 the government body.

11 Sec. 3. Section 22.7, subsection 33, Code 2015, is amended
 12 to read as follows:

13 33. Data processing software, as defined in section 22.3A,
 14 which is developed by a government body or developed by a
 15 nongovernment body and used by a government body pursuant to a
 16 contractual relationship with the nongovernment body.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
 19 the explanation's substance by the members of the general assembly.

20 This bill relates to public access to data processing
 21 software under Iowa's open records law (Code chapter 22).

22 Under current law, a government body may provide, restrict,
 23 or prohibit access to data processing software developed
 24 by the government body, regardless of whether the data
 25 processing software is separated or combined with a public
 26 record. A government body is required to establish policies
 27 and procedures to provide access to public records that are
 28 combined with its data processing software. A public record
 29 cannot be withheld from the public because it is combined with
 30 data processing software. A government body may establish
 31 payment rates and procedures required to provide access to data
 32 processing software, regardless of whether the data processing
 33 software is separated from or combined with a public record.
 34 Under Code chapter 22, "government body" means this state,
 35 or any county, city, township, school corporation, political

1 subdivision, or tax-supported district; certain nonprofit
2 corporations; the governing body of a drainage or levee
3 district; or any other entity of this state; or any branch,
4 department, board, bureau, commission, council, committee,
5 official, or officer or employee of any of the foregoing.

6 The bill provides that a government body may provide,
7 restrict, or prohibit access to data processing software
8 developed by a nongovernment body and used by a government body
9 pursuant to a contractual relationship with the nongovernment
10 body.

11 The bill requires a government body to make an electronic
12 public record available in the format in which it is readily
13 accessible to the government body if that format is useable
14 with commonly available data processing or database management
15 software. The government body may make a public record
16 available in a specific format requested by a person that is
17 different from that in which the public record is readily
18 accessible to the government body and may charge the reasonable
19 costs of any required processing, programming, or other work
20 required to produce the public record in the specific format,
21 in addition to any other costs allowed under Code chapter
22 22. If the person receiving a public record requests that the
23 public record be specially processed or produced in a format
24 different from that in which the public record is readily
25 accessible to the government body, the costs chargeable to the
26 person may be higher.

27 Conforming Code changes are made in the bill to Code
28 sections 22.2 (access to data processing software) and 22.7
29 (confidential records exceptions).